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Filing date: **07/22/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91208923
Party	Defendant Native Nutrients
Correspondence Address	Paulo A. de Almeida Patel & Almeida, P.C. 16830 VENTURA BLVD, SUITE 360 ENCINO, CA 91436 UNITED STATES Paulo@PatelAlmeida.com
Submission	Defendant's Notice of Reliance
Filer's Name	Paulo A. de Almeida
Filer's e-mail	Paulo@PatelAlmeida.com
Signature	/Paulo A. de Almeida/
Date	07/22/2014
Attachments	APPLICANT'S NOTICE OF RELIANCE.pdf(4062791 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

MT. EDEN ORGANICS, Inc.,	)	
	)	Opposition No. 91208923
Opposer,	)	Serial No. 85/631,038
	)	Mark: NATIVE NUTRIENTS
	)	
v.	)	
	)	
NATIVE NUTRIENTS,	)	
	)	
Applicant.	)	
	)	
	)	
	)	

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**APPLICANT'S NOTICE OF RELIANCE**

Pursuant to 37 C.F.R. §§ 2.120 and 2.122, and Rule 704 of the Trademark Trial and Appeal Board Manual of Procedure ("TBMP"), NATIVE NUTRIENTS ("Applicant") hereby submits its Notice of Reliance. Applicant's Notice of Reliance includes the following attached materials:

- A. Opposer's Responses to Applicant's First Set of Interrogatories under Rule 33 of the Federal Rules of Civil Procedure, pursuant to 37 C.F.R. §2.120(j)(3)(i) and TBMP § 704.10, included as Exhibit A and listed on Schedule 1 hereto.
  
- B. Opposer's Responses to Applicant's Second Set of Interrogatories under Rule 33 of the Federal Rules of Civil Procedure, pursuant to 37 C.F.R. §2.120(j)(3)(i) and TBMP § 704.10, included as Exhibit B and listed on Schedule 1 hereto.

C. Printouts from the website of the California Secretary of State at <http://www.sos.ca.gov/> and the website of the Division of Corporations of the State of Delaware at <https://delecorp.delaware.gov/tin/GINameSearch.jsp>, taken from the internet, pursuant to 37 C.F.R. § 2.122(e) and TBMP 704.08(b), included as Exhibit C to Schedule 1 hereto. The documents attached as Exhibit C were obtained from publicly available internet websites located at <http://www.sos.ca.gov/> and <https://delecorp.delaware.gov/tin/GINameSearch.jsp> on the date reflected on the printouts, in accordance with *Safer Inc. v. OMS Investments Inc.*, 94 USPQ2d 1031 (TTAB 2010).

An indication of the relevance of each document or set of documents contained within Exhibits A - C is set forth where appropriate in the attached Schedule 1, pursuant to 37 C.F.R. § 2.122(e). Applicant intends to rely upon and hereby makes of record the attached materials.

Dated: January 22, 2014

Respectfully submitted,

By: /Paulo A. de Almeida  
Paulo A. de Almeida  
Alex D. Patel  
Patel & Almeida, P.C.  
16380 Ventura Blvd., Suite 360  
Encino, CA 91436  
Attorneys for Applicant,  
Native Nutrients

**PROOF OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **APPLICANT'S NOTICE OF RELIANCE** has been served on Matthew H. Swyers, counsel for Opposer, on July 22, 2014, via First Class U.S. Mail, postage prepaid to:

MATTHEW H. SWYERS  
THE TRADEMARK COMPANY  
344 MAPLE AVE W STE 151  
VIENNA, VIRGINIA 22180-5612

/Paulo A. de Almeida  
Paulo A. de Almeida

SCHEDULE 1

Exhibit	Pages	Identification	Relevance
Exhibit A	A-1 to A-6	Opposer's Answers to Applicant's First Set of Interrogatories	Shows that Opposer does not have priority of use
Exhibit B	B-1 to B-9	Opposer's Answers to Applicant's Second Set of Interrogatories	Shows that Opposer does not have priority of use
Exhibit C	C-1 to C-8	Printouts from California Secretary of State and Delaware Division of Corporations websites containing information about Opposer's corporation, Mt. Eden Organics, Inc., and McPherson Farm and Garden, Inc.	Shows that Opposer does not have priority of use

# EXHIBIT A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

Serial No. 85/631,038  
For the mark: NATIVE NUTRIENTS

Mt. Eden Organics, Inc.	:	
	:	
Opposer,	:	
	:	
vs.	:	Opposition No. 91208923
	:	
Native Nutrients,	:	
	:	
Applicant.	:	

**OPPOSER’S ANSWERS & OBJECTIONS TO  
APPLICANT’S FIRST SET OF INTERROGATORIES TO OPPOSER**

Pursuant to the applicable rules of the Federal Rules of Civil Procedure and TBMP, Opposer Mt. Eden Organics, Inc. (hereinafter “Opposer”) hereby provides the following answers and objections to Applicant’s first set of interrogatories stating as follows:

**INTERROGATORIES**

**INTERROGATORY NO. 1:**

Describe YOUR first use of the alleged NATIVE NUTRIENTS mark as a trademark including the date of first use, the context in which it was used, the geographic location of its use, the medium on which it was first used, and all other facts supporting YOUR contention that such first use was a use in commerce satisfying the legal requirements of trademark use.

**Response:** Opposer objects to the instant interrogatory on the grounds that it is overly broad insofar as “all other facts” could be construed as including every single use of the trademark since inception. Subject to said objection, Opposer provides as follows:

The first sale of products under the NATIVE NUTRIENTS occurred in 2008 by Lee McPherson, the sole principal of Opposer Mt. Eden Organics, Inc. In that year, Mr. McPherson sold one to two truckloads of mushroom compost under Opposer’s trademark to McPherson Farm & Gardens located at 133 Big Foot Meadows, Zenia, CA 95595, (707) 923-1348.

In October 2010 the label for NATIVE NUTRIENTS, as it currently appears and appeared in the specimen submitted with Opposer’s trademark application, was designed.

Thereafter, in December of 2010 Opposer made additional sales of products under the NATIVE NUTRIENTS trademark to the aforementioned McPherson Farm & Gardens as well as to an individual named "Brendon" from Santa Cruz, California.

On or about February 24, 2011 McPherson Farm & Gardens purchased more products from the Opposer bearing the Opposer's trademark NATIVE NUTRIENTS. Additionally, on or about March 21, 2011 Weathertop Nursery of Laytonville, CA purchased products from the Opposer under the trademark NATIVE NUTRIENTS. Weathertop Nursery is located at 44901 Harmon Dr, Laytonville, CA 95454, (707) 984-6385.

Additionally, on or about January 3, 2011 Opposer registered and began use of NATIVE NUTRIENTS' Facebook page a day after have registered and initiating use of the corporate page for Mt. Eden Organics, Inc. The geographic scope of these marketing efforts were everywhere the Internet and Facebook.com have a presence including, but not limited to, all 50 U.S. states and territories.

Opposer also secured the domain name MtEdenOrganics.com at some point prior to February of 2011. No later than March 13, 2012 the Opposer's trademark NATIVE NUTRIENTS appeared on the web site posted to MtEdenOrganics.com. The geographic scope of these marketing efforts were everywhere the Internet has a presence including, but not limited to, all 50 U.S. states and territories.

## **INTERROGATORY NO. 2:**

IDENTIFY all persons with knowledge concerning the facts RELATING TO YOUR alleged first use of the mark NATIVE NUTRIENTS as a trademark.

**Response:** Opposer objects to the instant interrogatory on the grounds that it is overly broad insofar as "all persons" could be construed as including every single person known, or unknown, to Opposer who has knowledge of awareness of Opposer's use of the NATIVE NUTRIENTS trademark. Subject to said objection, Opposer provides as follows:

Lee McPherson is the person with the most knowledge concerning Opposer's first use of its trademark. Mr. McPherson's address is PO BOX 478, Santa Cruz, CA 95061. He may be reached by and through the office of the undersigned.

Jeff McPherson also retains information concerning both Mr. Lee McPherson's first use of the mark as well as the related Opposer's. Mr. Jeff McPherson's contact information is McPherson Farm & Gardens located at 133 Big Foot Meadows, Zenia, CA 95595, (707) 923-1348.

Other individuals with knowledge relevant to the instant interrogatory may be identified in documents produced by the Opposer including purchasers of its products in the nature of consumers on invoices and the like. As such, Opposer hereby incorporates any persons identified in its documents produced as persons who may have information responsive to the instant interrogatory.

### **INTERROGATORY NO. 8:**

State all facts RELATING TO how YOU promoted the NATIVE NUTRIENTS mark during the last four (4) years, including identifying the specific marketing medium utilized, the geographic area(s) in which such marketing, advertising or promoting occurred, indicate the time period(s) during which such marketing, advertising or promoting was conducted, and the specific goods and/or services marketed, advertised or promoted.

**Response:** The NATIVE NUTRIENTS mark has been promoted in the following manners during the last four (4) years:

Opposer has promoted its goods under the NATIVE NUTRIENTS trademark at home and garden expos. The two largest were in 2012 at the Humboldt Garden Expo in Blue Lake, CA and at the Mendocino Garden Expo.

As set forth above in response to Interrogatory No. 1, on January 3, 2011 Opposer registered and began use of NATIVE NUTRIENTS' Facebook page a day after have registered and initiating use of the corporate page for Mt. Eden Organics, Inc. The geographic scope of these marketing efforts were everywhere the Internet and Facebook.com have a presence including, but not limited to, all 50 U.S. states and territories. The page has been in continuous operation since being first posted on January 3, 2011.

Also as set forth above in response to Interrogatory No. 1, Opposer secured the domain name MtEdenOrganics.com at some point prior to February of 2011. No later than March 13, 2012 the Opposer's trademark NATIVE NUTRIENTS appeared on the web site posted to MtEdenOrganics.com. The geographic scope of these marketing efforts were everywhere the Internet has a presence including, but not limited to, all 50 U.S. states and territories. The web site and NATIVE NUTRIENTS' use thereon has been in continuous operation since being first posted on March 13, 2012.

Opposer has participated in vendor days at various stores in Oregon and Northern California in 2013.

Opposer's trademark and products used therewith have also been advertised on the radio and in newspapers, through pamphlets, and flyers, 8" by 10" cards, as well as mailing samples to potential distributors.

### **INTERROGATORY NO. 9:**

State the marketing expenses made by YOU or on YOUR behalf RELATING TO the NATIVE NUTRIENTS mark, broken-down by goods or services provided, for each month from inception of YOUR alleged use of the NATIVE N UTRIENTS mark to the present.

**Response:** Opposer's records are not kept in a manner that would allow for a month-by-month break down of the expenses as requested. However, since inception of the use of the trademark Opposer estimates that it has expended \$20,000.00 in addition to time and effort in the marketing of its trademark estimated to be in the range of \$60,000.00 to \$80,000.00 plus other incidental expenses.

**INTERROGATORY NO. 20:**

IDENTIFY all distribution agreements concerning the sale and distribution in the United States of YOUR goods bearing the alleged NATIVE N UTRIENTS mark.

**Answer:** As set forth above, Hydrofarm Inc. of Petaluma, CA is the Opposer's distributor. However, there are no formal distribution agreements concerning this relationship.

**INTERROGATORY NO. 21:**

IDENTIFY all retailers which purchased NATIVE N UTRIENTS PRODUCTS from YOU with in the last four (4) years.

**Answer:** Opposer incorporates its answers to previous interrogatories above including, but not limited to, No. 1. Further information concerning actual purchaser shall be provided in the nature of invoices produced in conjunction with Opposer's responses to requests for production of documents which are hereby expressly incorporated into this answer.

**INTERROGATORY NO. 22:**

IDENTIFY all PERSONS which purchased NATIVE NUTRIENTS PRODUCTS from YOU with i n the last four (4) years.

**Answer:** Applicant incorporates its answer to Interrogatory No. 21.

**INTERROGATORY NO. 23:**

IDENTIFY all PERSONS who distributed NATIVE NUTRIENTS PRODUCTS to retailers within the last four (4) years.

**Answer:** Applicant incorporates its answer to Interrogatory No. 3.

**INTERROGATORY NO. 24:**

IDENTIFY all retailers which sold NATIVE NUTRIENTS PRODUCTS to the consuming public within the last four (4) years.

**Answer:** Applicant incorporates its answer to Interrogatory No. 1. Further information concerning actual retailers shall be provided in the nature of invoices produced in conjunction with Opposer's responses to requests for production of documents which are hereby expressly incorporated into this answer.

**INTERROGATORY NO. 25:**

State the dollar amount of YOUR gross sales revenue for NATIVE NUTRIENTS PRODUCTS for each year within the last four (4) years.

**Answer:** 2013: @\$39,000.00 to date.  
2012: @\$79,000.00  
2011: @\$69,000.00  
2010: @\$11,000.00

**INTERROGATORY NO. 26:**

State the total number of units of NATIVE NUTRIENTS PRODUCTS sold by YOU within the last four (4) years.

**Answer:** As of the date of this response, 26,253 cubic foot bags.

**INTERROGATORY NO. 27:**

State the dollar amount of YOUR advertising expended for the promotion of NATIVE NUTRIENTS PRODUCTS for each year within the last four (4) years.

**Answer:** As set forth in response to Interrogatory No. 9, Opposer's records are not kept in a manner that would allow for a month-by-month break down of the expenses as requested or a year-by-year. However, since inception of the use of the trademark Opposer estimates that it has expended \$20,000.00 in addition to time and effort in the marketing of its trademark estimated to be in the range of \$60,000.00 to \$80,000.00 plus other incidental expenses.

**INTERROGATORY NO. 28:**

State whether any of the NATIVE NUTRIENTS PRODUCTS sold by YOU in the last four (4) years bore a tag or label affixed to the goods showing the alleged mark NATIVE NUTRIENTS printed on the tag or label.

**Answer:** All 26,253 cubic foot bags sold bore the NATIVE NUTRIENTS label thereon.

**INTERROGATORY NO. 29:**

If YOUR response to the preceding interrogatory is in the affirmative, describe in detail the NATIVE NUTRIENTS PRODUCTS sold by YOU which bore a tag or label showing the alleged mark NATIVE NUTRIENTS printed on the tag or label, including the type of product sold, the date the product was sold, and the price paid by the purchaser for the product.

**Answer:** Mushroom compost.

**INTERROGATORY NO. 30:**

IDENTIFY the individual answering these Interrogatories, and state the basis for that individual's authority to do so.

**Answer:** Lee McPherson with the assistance of counsel.

DATED this 23<sup>rd</sup> day of September, 2013.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/  
Matthew H. Swyers, Esquire  
344 Maple Avenue West, Suite 151  
Vienna, VA 22180  
Telephone (800) 906-8626 x100  
Facsimile (270) 477-4574  
mswyers@TheTrademarkCompany.com  
Attorney for Opposer

# EXHIBIT B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

Serial No. 85/631,038  
For the mark: NATIVE NUTRIENTS

Mt. Eden Organics, Inc.	:	
	:	
Opposer,	:	
	:	
vs.	:	Opposition No. 91208923
	:	
Native Nutrients,	:	
	:	
Applicant.	:	

**OPPOSER’S ANSWERS & OBJECTIONS TO  
APPLICANT’S SECOND SET OF INTERROGATORIES TO OPPOSER**

Pursuant to the applicable rules of the Federal Rules of Civil Procedure and TBMP, Opposer, Mt. Eden Organics, Inc. (hereinafter “Opposer”), hereby provides the following answers and objections to Applicant’s second set of interrogatories stating as follows:

**INTERROGATORIES**

**INTERROGATORY NO. 1:**

IDENTIFY “Brendon” from Santa Cruz, California as mentioned in Opposer’s Response to Interrogatory No. 2 of Applicant’s First Set of Interrogatories.

**Response:** Opposer does not retain contact information for Brendon.

**INTERROGATORY NO. 2:**

IDENTIFY all COMMUNICATIONS exchanged between YOU and any PERSONS having the first name “Brendon” RELATING TO YOUR alleged NATIVE NUTRIENTS PRODUCTS during 2010.

**Response:** Not Applicable.

**INTERROGATORY NO. 3:**

Describe in detail the circumstances surrounding any and all sales of NATIVE NUTRIENTS PRODUCTS by YOU or any PERSON having the first name Brendon during the month of December 2010, including but not limited to, the time of the transaction, the location where the transaction was completed, and whether the purchaser paid for the goods using cash, credit card, check or other method of payment.

**Response:** Opposer was a member of a darts team in 2010. A friend on the darts team informed Opposer that he had a friend named Brendon that was in need of soil and/or other gardening products. Brendon came to Opposer's first location at: 1272 Highway 1, Moss Landing, California 95039 with a van to pick up the Native Nutrients Product from Opposer. Brendon paid for the product in cash.

**INTERROGATORY NO. 4:**

IDENTIFY "Sunshine Tresador" of "Garberville" as listed on invoice # 362645 which Opposer produced in response to Applicant's First Set of Requests for Production of Documents.

**Response:** Opposer retains the following contact information for customer: Sunshine Tresador, Phone No: (707)223-3347, Redway, CA. Sunshine Tresador purchased product from McPherson Farm & Gardens in or about June 2008.

**INTERROGATORY NO. 5:**

IDENTIFY all COMMUNICATIONS exchanged between YOU and any PERSONS having the name "Sunshine Tresador" RELATING TO YOUR alleged NATIVE NUTRITION PRODUCTS during 2008.

**Response:** Not Applicable.

**INTERROGATORY NO. 6:**

Describe in detail the circumstances surrounding any and all sales of NATIVE NUTRIENTS PRODUCTS by YOU or any PERSON having the first name "Sunshine Tresador" during the month of June of 2008, including but not limited to, the time of the transaction, the location where the transaction was completed, and whether the purchaser paid for the goods using cash, credit card, check or other method of payment.

**Response:** Sunshine Tresador purchased product from McPherson Farm & Gardens in or about June of 2008. McPherson Farm & Gardens is located at 133 Big Foot Meadows, Zenia, CA 95595, (707) 923-1348. Opposer does retain information on how Sunshine Tresador paid for the product.

**INTERROGATORY NO. 7:**

IDENTIFY “Jeff” as listed on invoice dated “6/3/08” which Opposer produced in response to Applicant’s First Set of Requests for Production of Documents.

**Response:** Jeff McPherson is Lee McPherson’s father. Jeff McPherson works at McPherson Farm and Gardens. Jeff McPherson’s contact information is McPherson Farm & Gardens located at 133 Big Foot Meadows, Zenia, CA 95595 (707) 923-1348.

**INTERROGATORY NO. 8:**

IDENTIFY all COMMUNICATIONS exchanged between YOU and any PERSONS having the first name “Jeff” RELATING TO YOUR alleged NATIVE NUTRITION PRODUCTS during the month of June of 2008.

**Response:** None retained.

**INTERROGATORY NO. 9:**

Describe in detail the circumstances surrounding any and all sales of NATIVE NUTRIENTS PRODUCTS by YOU to any PERSON having the first name “Jeff” during the month of June of 2008 including but not limited to, the time of the transaction, the location where the transaction was completed.

**Response:** Lee McPherson sold Jeff McPherson a truck load of NATIVE NUTRIENTS PRODUCT. Jeff McPherson paid for the product in cash.

**INTERROGATORY NO. 10:**

IDENTIFY “Roger” of “Alderpoint” as listed on invoice dated “6-11-2008” which Opposer produced in response to Applicant’s First Set of Requests for Production of Documents.

**Response:** Opposer retains the following contact information for customer Roger W. Hall (707) 926-5233 Alderpoint, CA. Roger purchased product from McPherson Farm & Gardens in or about June 2008.

**INTERROGATORY NO. 11:**

IDENTIFY all COMMUNICATIONS exchanged between YOU and any PERSONS having the first name "Roger" RELATING TO YOUR alleged NATIVE NUTRITION PRODUCTS during the month of June of 2008.

**Response:** None retained.

**INTERROGATORY NO. 12:**

Describe in detail the circumstances surrounding any and all sales of NATIVE NUTRIENTS PRODUCTS by YOU to any PERSON having the first name "Roger" during the month of June of 2008 including but not limited to, the time of the transaction, the location of the transaction.

**Response:** Roger purchased product from McPherson Farm & Gardens in or about June of 2008. McPherson Farm & Gardens is located at 133 Big Foot Meadows, Zenia, CA 95595, (707) 923-1348. Opposer does retain information on how Roger paid for the product.

**INTERROGATORY NO. 13:**

IDENTIFY all PERSONS who purchased YOUR alleged NATIVE NUTRIENTS PRODUCT between January 1, 2008 and January 1, 2011.

**Response:** Opposer sold at least three (3) truckloads of NATIVE NUTRIENTS PRODUCT to McPherson Farm & Gardens between January 1, 2008 and January 1, 2011. McPherson Farm & Gardens sold the NATIVE NUTRIENTS PRODUCT to customers. McPherson Farm & Gardens is located at 133 Big Foot Meadows, Zenia, CA 95595, (707) 923-1348. Opposer does not retain information regarding the exact dates of purchase during this time span.

**INTERROGATORY NO. 14:**

IDENTIFY all COMMUNICATIONS exchanged between YOU and any PERSONS who purchased NATIVE NUTRIENTS PRODUCTS from YOU between January 1, 2008 and January 1, 2011.

**Response:** None retained.

**INTERROGATORY NO. 15:**

IDENTIFY all directors, officers, and employees of McPherson Farm & Gardens of Zenia, California.

**Response:** Jeff McPherson is the owner of McPherson Farm & Gardens is located at 133 Big Foot Meadows, Zenia, CA 95595, (707) 923-1348.

**INTERROGATORY NO. 16:**

IDENTIFY all COMMUNICATIONS exchanged between YOU and Jeff McPherson of Zenia, California, RELATING TO YOUR alleged NATIVE NUTRIENTS PRODUCTS between January 1, 2008 and January 1, 2011.

**Response:** Other than the aforementioned invoice, Opposer does not retain knowledge or record of any COMMUNICATIONS with Mr. McPherson during this time span.

**INTERROGATORY NO. 17:**

IDENTIFY all COMMUNICATIONS exchanged between YOU and any director, officer, or employee of McPherson Farm & Gardens of Zenia, California RELATING TO YOUR alleged NATIVE NUTRIENTS PRODUCTS between January 1, 2008 and January 1, 2011.

**Response:** None retained.

**INTERROGATORY NO. 18:**

Describe in detail YOUR business relationship with McPherson Farm & Gardens of Zenia, California.

**Response:** McPherson Farm & Gardens of Zenia, California is a retail store that sells NATIVE NUTRIENTS PRODUCTS.

**INTERROGATORY NO. 19:**

Describe in detail YOUR business relationship with Jeff McPherson of Zenia, California.

**Response:** Jeff McPherson is a customer of Lee McPherson.

**INTERROGATORY NO. 20:**

IDENTIFY any and all contracts or agreements entered into between YOU and McPherson Farm & Gardens of Zenia, California, relating to the distribution of NATIVE NUTRIENTS PRODUCTS.

**Response:** Not Applicable.

**INTERROGATORY NO. 21:**

IDENTIFY McPherson Farm & Gardens of Zenia, California.

**Response:** McPherson Farm & Gardens of Zenia, California is a retail store that sells NATIVE NUTRIENTS PRODUCTS. McPherson Farm & Gardens is located at 133 Big Foot Meadows, Zenia, CA 95595, (707) 923-1348.

**INTERROGATORY NO. 22:**

IDENTIFY all fact and expert witnesses that Opposer expects may testify in this proceeding and, for each witness, set forth a summary of the testimony to be provided by such witness and IDENTIFY all documents that related in any way to the anticipated testimony.

**Response:** Opposer identifies the following witnesses:

- Lee McPherson's address is PO BOX 478, Santa Cruz, CA 95061. He may be reached by and through the office of the undersigned.
- Jeff McPherson's address is PO BOX 478, Santa Cruz, CA 95061. He may be reached by and through the office of the undersigned.
- Roger W. Hall, (707) 926-5233, Alderpoint, CA.
- Sunshine Tresador, (707)223-3347, Redway, CA.

DATED this 2<sup>nd</sup> day of December, 2013.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/

Matthew H. Swyers, Esquire

344 Maple Avenue West, Suite 151

Vienna, VA 22180

Telephone (800) 906-8626 x100

Facsimile (270) 477-4574

mswyers@TheTrademarkCompany.com

Attorney for Opposer

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

In the matter of U.S. Registration 3,700,634,  
For the mark NATIVE NUTRIENTS and design,  
Registered on the Principal Register on October 27, 2009.

Mt. Eden Organics, Inc.,	:	
	:	
Opposer,	:	
	:	
vs.	:	Opposition No. 92054574
	:	
Native Nutrients,	:	
	:	
Applicant.	:	

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I caused a copy of the foregoing pleading this 2<sup>nd</sup> day of December, 2013, to be served, via first class mail, postage prepaid as well as email, upon:

Paulo A. de Almeida  
Patel & Almeida, P.C.  
16830 Ventura Blvd., Ste. 360  
Encino, CA 91436

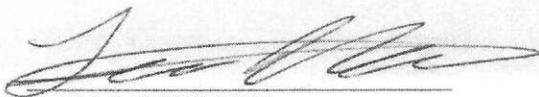
/Matthew H. Swyers/  
Matthew H. Swyers

LEE McPHERSON

COUNTY OF Alameda

STATE OF CALIFORNIA

BEFORE ME, the undersigned authority, this 29 day of November 2013, personally appeared Mr. Lee McPherson, who after being first duly sworn, states that he is the person who assisted and provided the answers to Applicant's Second Set of Interrogatories to Opposer and that the answers provided therein are true and correct, and who is personally known to me or who has produced CALIFORNIA DRIVER LICENSE as identification and who did take an oath.

  
LEE McPHERSON

11/29/13

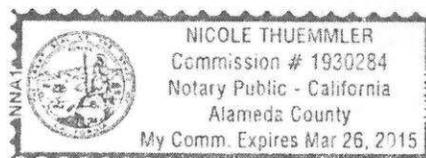
Date

Notary Public: Nicole Thuemmler (signature)

Notary Public: Nicole Thuemmler (Typed/Printed name of Notary Public)

Commission No. 1930284

My Commission Expires: 03/26/2015



# EXHIBIT C



## Department of State: Division of Corporations

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## Entity Details

### THIS IS NOT A STATEMENT OF GOOD STANDING

<a href="#">File Number:</a>	4836424	<a href="#">Incorporation Date / Formation Date:</a>	06/15/2010 (mm/dd/yyyy)
<a href="#">Entity Name:</a>	MT. EDEN ORGANICS INC.		
<a href="#">Entity Kind:</a>	CORPORATION	<a href="#">Entity Type:</a>	CLOSED CORP
<a href="#">Residency:</a>	DOMESTIC	State:	DE

### REGISTERED AGENT INFORMATION

Name:	HARVARD BUSINESS SERVICES, INC.		
Address:	16192 COASTAL HWY		
City:	LEWES	County:	SUSSEX
State:	DE	Postal Code:	19958
Phone:	(302)645-7400		

Business Entity  
Certifications, Apostilles  
& Authentication of  
Documents

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## Business Entity Detail

Data is updated to the California Business Search on Wednesday and Saturday mornings. Results reflect work processed through Friday, July 18, 2014. Please refer to [Processing Times](#) for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

<b>Entity Name:</b>	MT. EDEN ORGANICS, INC.
<b>Entity Number:</b>	C3312156
<b>Date Filed:</b>	08/03/2010
<b>Status:</b>	ACTIVE
<b>Jurisdiction:</b>	DELAWARE
<b>Entity Address:</b>	PO BOX 478
<b>Entity City, State, Zip:</b>	SANTA CRUZ CA 95061
<b>Agent for Service of Process:</b>	LEE MCPHERSON
<b>Agent Address:</b>	1737 SAN PABLO AVE
<b>Agent City, State, Zip:</b>	BERKELEY CA 94702

\* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code [section 2114](#) for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to [Name Availability](#).
- For information on ordering certificates, copies of documents and/or status reports or to request



a more extensive search, refer to [Information Requests](#).

- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Field Descriptions and Status Definitions](#).

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## Entity Details

**THIS IS NOT A STATEMENT OF GOOD STANDING**

<a href="#">File Number:</a>	<b>4836424</b>	<a href="#">Incorporation Date / Formation Date:</a>	<b>06/15/2010</b> (mm/dd/yyyy)
<a href="#">Entity Name:</a>	<b>MT. EDEN ORGANICS INC.</b>		
<a href="#">Entity Kind:</a>	<b>CORPORATION</b>	<a href="#">Entity Type:</a>	<b>CLOSED CORP</b>
<a href="#">Residency:</a>	<b>DOMESTIC</b>	State:	<b>DE</b>

### REGISTERED AGENT INFORMATION

Name:	<b>HARVARD BUSINESS SERVICES, INC.</b>		
Address:	<b>16192 COASTAL HWY</b>		
City:	<b>LEWES</b>	County:	<b>SUSSEX</b>
State:	<b>DE</b>	Postal Code:	<b>19958</b>
Phone:	<b>(302)645-7400</b>		

Business Entity  
Certifications, Apostilles  
& Authentication of  
Documents

Additional Information is available for a fee. You can retrieve Status for a fee of \$10.00 or more detailed information including current franchise tax assessment, current filing history and more for a fee of \$20.00.

Would you like  Status  Status, Tax & History Information

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<b>Entity Name:</b>	MCPHERSON FARM AND GARDEN, INC.
<b>Entity Number:</b>	C3425402
<b>Date Filed:</b>	11/03/2011
<b>Status:</b>	SOS FORFEITED
<b>Jurisdiction:</b>	DELAWARE
<b>Entity Address:</b>	133 BIGFOOT MEADOWS ZENIA PEAK RD
<b>Entity City, State, Zip:</b>	ZENIA CA 95595
<b>Agent for Service of Process:</b>	JEFF MCPHERSON
<b>Agent Address:</b>	133 BIGFOOT MEADOWS ZENIA PEAK RD
<b>Agent City, State, Zip:</b>	ZENIA CA 95595

\* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code [section 2114](#) for information relating to service upon corporations that have surrendered.
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